UNITED
NATIONS

CERD

International Convention on
the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1367
2 September 1999

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-fifth session

SUMMARY RECORD OF THE 1367th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 25 August 1999, at 10 a.m.

Chairman: Mr. ABOUL-NASR

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Second to eleventh periodic reports of Guinea (continued)

Review of the implementation of the Convention in States parties whose reports are excessively overdue (continued)

Maldives (continued)

Draft concluding observations concerning the initial and second periodic reports of Azerbaijan

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.99-43990 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PA UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Second to eleventh periodic reports of Guinea (continued) (CERD/C/334/Add.1; HRI/CORE/1/Add.80/Rev.1)

1. At the invitation of the Chairman, the members of the delegation of Guinea resumed their places at the Committee table.

2. Mr. LONSENY FALL (Guinea), continuing to reply to questions raised members of the Committee, said that job market conditions and the high unemployment in the country had to be understood against the background o three decades of Socialist centralization and inferior general education the 1950s to the 1980s. The new regime in power since 1984 had taken mea to reduce the crushing bureaucracy it had inherited. Many new regulation been adopted to restructure the job market and to provide market-oriented training in order to fight unemployment. A special department had been s to coordinate technical and vocational training, aimed particularly at building up a pool of middle-level cadres. In order to develop the priva sector, the Government had provided investment incentives; and in order t rejuvenate the ageing workforce it was now recruiting thousands of young professionals on the basis of competitive examinations. Although the structural adjustment programme had spurred a 5 per cent annual growth ra Guinea remained one of the least developed countries in the world. As pa its battle against poverty, the Government had encouraged the establishme non-governmental organizations (NGOs) working in the social and economic areas.

3. A countrywide education programme aimed to establish infrastructure to the secondary-school level in all districts, without any regional favouritism whatsoever, and it had produced encouraging results in the re years in terms of school enrolment. A substantial amount had been appropriated for education and teachers were accorded a special status in order to enhance their position.

4. By law, the Government could ex officio decide to disband and prose any ethnically based associations or political parties acting in violatio the law or founded for illegal purposes and it could deny authorization f any political party not established according to the legal criteria. Political parties in Guinea were not beholden to any one ethnic group or region, and all the parties, as part of a functioning democratic system, represented at all administrative levels, from the lowest to the highest.

5. Concerning the implementation of article 4 of the Convention, Guine Criminal Code forbade incitement to hatred and racial discrimination by individuals or groups. Two years earlier, a political leader who had pub incited the local populace to take up arms on ethnic grounds had been jai

6. Crime and criminal violence had spread, in part because of the Government's new policy of open borders since 1984, its liberal political economic system and its more humane laws. With the economic revival had

a renewed outbreak of banditry, largely due to the rural exodus and the widespread unemployment. The lawlessness had no particular ethnic dimension and was not limited to any one region.

7. Contrary to allegations, the aim of the radio and television programme Kibaro, broadcast nightly in all the main languages of the country, was to provide information across ethnic boundaries, especially to persons who did not speak French. The programme offered informative bulletins and issued calls to national unity, in order to raise public awareness in a period of nascent democracy. In no way did it resemble Radio Milles Collines, which had existed solely to sow racial hatred in Rwanda.

8. The Government had cooperative relations with all the NGOs in the country. The teaching of human rights had not yet been introduced into the curriculum, but he would bring the matter to the attention of his Government. The Government did, however, take every opportunity to organize public seminars or debates on aspects of human rights. Together with the non-governmental Guinean Organization for the Defence of Human Rights (OGDDH), whose representatives were in attendance at the current meeting, the Government had, for instance, commemorated the tenth anniversary of the African Charter on Human and Peoples' Rights by sending OGDDH representatives to speak of human rights in schools, army barracks and police precincts and on radio and television. The fiftieth anniversary of the Universal Declaration of Human Rights had likewise been commemorated in conjunction with the many NGOs in the country by informing the general public about the main human rights instruments. The Government would have no difficulty disseminating information about the Committee's work. The Government also called upon Guinean artists - a very influential category of persons in Africa - to raise the people's democratic national consciousness and awareness of human rights through their songs, performances and exhibits.

9. Furthermore, the Office of the High Commissioner for Human Rights had assisted the Government in the training of its police force. The Centre for Human Rights had in the past provided technical assistance for the preparation of Guinea's various periodic reports, but since most of the trained professional staff had moved on to other positions, Guinea would greatly benefit from renewed assistance. It had in fact approached the Office of the High Commissioner to that effect and welcomed such cooperation, which it hoped would enhance its dialogue with the Committee and prevent regrettable delays in the submission of its reports.

10. Guinea had not yet made its position known on the declaration under article 14 of the Convention.

11. With the return of many of the hundreds of thousands of Guineans who had been forced into exile prior to 1984, the new Government had done everything help them re-enter society. A special Secretariat of State for the purpose had been set up at the time and it had encouraged the return particularly of intellectuals who could help in nation-building. A new department in the Ministry of Foreign Affairs now handled the matter, and Guinea had applied for membership in the International Organization for Migration, which could help it reintegrate the continuing flow of returnees.

12. The Kissi people were a dynamic segment of the Guinean population and the area they inhabited was renowned as an active agricultural and trading centre. Many government leaders, political figures and professionals were drawn from that ethnic group.

13. Thanking the Committee for its comments and questions, which would provide valuable input for the next periodic report, he assured it that the statistics requested would be supplied in the next report.

14. The CHAIRMAN, speaking in his personal capacity, said that he very much welcomed the presence of representatives of African NGOs at the meeting, for the first time in the Committee's history. He hoped that they would follow the Committee's work and provide it with information that was important from an African perspective.

15. He also wished to make it clear that the Committee was not insisting that the Government should make the optional declaration under article 14, but simply requesting that it should consider doing so.

16. He expressed the hope that at the meeting of States parties to the Convention in New York the following year another African member would be elected to the Committee, and welcomed the cooperation between Guinea and the Office of the High Commissioner for Human Rights.

17. Mr. SHAHI expressed appreciation to Guinea for having offered asylum to so many refugees from other countries in Africa. Coming as he did from a country that had taken in several million in a decade, he understood the heavy cost of such openness.

18. Mr. YUTZIS (Country Rapporteur), noting Guinea's willingness to deal with the Committee's concerns in its next report, endorsed the important point made by the Chairman about the need for a stronger African presence in the Committee and also about the welcome attendance of African NGOs.

19. He still had three subjects of concern: first, the huge influx of refugees from conflicts in neighbouring countries had created a problematic situation in Guinea - a matter which would also be raised with the countries concerned when their periodic reports were considered by the Committee. Secondly, structural adjustment invariably had very severe consequences for the most vulnerable sectors of a country's population, and if a State itself did not take care of them, the private sector never would. Lastly, he wondered if any discrimination had been at the root of a recent incident in which 5,000 homes of members of the Peul ethnic group had been destroyed on the grounds that they were squatters, especially since the same ethnic group always seemed to be targeted in Guinea.

20. He hoped that the Convention, the Government's periodic report and the Committee's concluding observations would be widely publicized among the general public.

21. The CHAIRMAN, speaking in his personal capacity, said that the economic hardship resulting from far-reaching structural adjustment had brought even some developed countries to the brink of collapse. Small, incremental steps, suited to a particular country's situation, were far preferable.

22. Thanking the delegation, he said that he looked forward to the next report of Guinea.

23. The delegation of Guinea withdrew.

Review of the implementation of the Convention in States parties whose reports are excessively overdue (continued)

Maldives (continued) (CERD/C/55/Misc.47/Rev.2; future CERD/C/...)

24. The CHAIRMAN recalled that the Committee had adopted the draft concluding observations on its review of the implementation of the Convention in Maldives, with the exception of paragraphs 3, 5 and 6, which he invited the Committee to consider.

Paragraph 3

25. Mr. GARVALOV (Country Rapporteur) said that agreement had been reached to add a second sentence to paragraph 3, reading:

> "The Committee is interested in receiving the relevant information from the State party, particularly with respect to any guarantees of equality and protection against racial discrimination."

26. Paragraph 3, as amended, was adopted.

Paragraph 5

27. Mr. GARVALOV (Country Rapporteur) said it had been agreed to replace the wording of paragraph 5 by a new text, reading:

> "The Committee requests further information from the State party, in connection with the statements to be found in paragraph 1 of the fourth periodic report (CERD/C/203/Add.1) to the effect that 'no form of discrimination exists in the Maldives based on race or any other differences among the population' and that 'Therefore, no specific legislation is required to implement the provisions of the Convention'."

28. Paragraph 5, as amended, was adopted.

Paragraph 6

29. Mr. GARVALOV (Country Rapporteur) read out the following revised version of paragraph 6:

> "The Committee also requests further information from the State party on the situation of migrant workers and foreigners and, in particular, whether they enjoy the protection of the Convention."

30. Paragraph 6 was adopted.

31. The draft concluding observations on the review of the implementation of the Convention in Maldives, as a whole, as amended, were adopted.

Draft concluding observations concerning the initial and second periodic reports of Azerbaijan (CERD/C/55/Misc.51/Rev.3; future CERD/C/...)

32. Mr. BANTON (Country Rapporteur), introducing the draft concluding observations, pointed out that paragraph 17 had been left within square brackets because some Committee members felt that it should be deleted.

33. The CHAIRMAN invited the Committee to consider the draft, paragraph by paragraph.

Paragraphs 1 and 2

34. Paragraphs 1 and 2 were adopted.

Paragraph 3

35. Mr. GARVALOV proposed that the words "with Armenia" at the end of the first sentence should be followed by a comma and "another State party".

36. It was so agreed.

37. The CHAIRMAN, speaking in his personal capacity, observed that it would be more appropriate for the Committee to express concern about hindrance to implementation of the Convention rather than stress the undermining of peace and security in the region.

38. Mr. van BOVEN said that the reference to undermining peace and security caused him no difficulty, since the Committee had often referred, in previous concluding observations, to that sort of context. He was satisfied with the text as it stood.

39. Mr. SHAHI said he supported the reference to the principles identified in the framework of the Organization for Security and Cooperation in Europe (OSCE), which in any case had been mentioned by the State party itself in its periodic reports.

40. Mr. RECHETOV, referring to the Chairman's observation, suggested that the words "undermines peace and security in the region" might be followed by "and is impeding implementation of the Convention".

41. Mr. SHAHI said that the text ought to reflect a distinction between refugees, who had fled the country as a result of the conflict, and displaced persons within the State.

42. Mr. BANTON (Country Rapporteur) said that to go into such detail would be impractical and could lead to inaccuracies.

43. The CHAIRMAN, speaking in his personal capacity, said it might be as well to omit figures and details of that kind altogether.

44. Mr. SHERIFIS, supported by Mr. GARVALOV and Mr. RECHETOV, proposed that the third sentence should begin: "As a result of the conflict,".

45. Mr. DIACONU said that he had difficulty with the third sentence, especially the reference to ethnic Armenians, many of whom, it seemed, were still in the sovereign State of Azerbaijan. He thought that the sentence should be deleted.

46. The CHAIRMAN proposed that consideration of paragraph 3 should be left in abeyance pending informal consultations.

47. It was so agreed.

Paragraphs 4, 5 and 6

48. Paragraphs 4, 5 and 6 were adopted.

Paragraph 7

49. The CHAIRMAN asked whether the paragraph could be reworded so as to request further information from the State party, and then placed in the section on suggestions and recommendations.

50. Mr. BANTON (Country Rapporteur) said that he preferred it to be retained among the subjects of concern.

51. Mr. DIACONU proposed that the last part of the paragraph, following the words "articles 2 and 4 of the Convention", should be deleted. The registration of associations of human rights defenders did not fall clearly within the terms of reference of the Committee.

52. Mr. RECHETOV said he considered the last part of the paragraph to be the most important part, and felt very strongly that it should be retained. The question of registration of organizations which dissented from the opinion of the Government was a serious problem which had a direct bearing on the activities of human rights organizations, including those working to protect national minorities.

53. The CHAIRMAN, speaking in his personal capacity, said that the current wording implied that the entire Committee had concluded that difficulties were encountered by associations seeking official registration. Perhaps it would be preferable to say that some members of the Committee had expressed concern in that regard.

54. Mr. BANTON (Country Rapporteur) drew attention to the use of the qualifying word "apparently". Addressing Mr. Diaconu's concern, he said that the paragraph fell within the terms of article 2, paragraph 1 (e), under which the State party undertook to encourage integrationist multiracial organizations, which could include human rights organizations. One such body had been denied registration five times in succession. When the question had been raised with the delegation, the reply had simply been that there was no reason for the State to reject such associations. The difficulties encountered by such organizations were an obstacle to the implementation of the Convention.

55. The CHAIRMAN contended that a State's refusal to register such associations did not automatically constitute a problem of racial discrimination, nor did it prove that the Convention was not being implemented. States had the right to register NGOs as they saw fit, and he knew of none which registered them automatically and unconditionally. Some registration procedures were applied, for example, for the purpose of revealing funding sources, or as an obstacle to the formation of racist groups.

56. Mr. SHERIFIS said that the Committee had, in the case of another State party, included a similar and even stronger statement in its concluding observations. If the statement was true, it should be retained in the interests of maintaining a uniform standard for the concluding observations.

57. Mr. van BOVEN suggested replacing the words "associations of human rights defenders" with "organizations promoting the objectives of the Convention".

58. Mr. SHAHI said he could support the amendment proposed by Mr. van Boven, provided it was factual. On the basis of the information in the periodic report and the delegation's presentation, could the Committee conclude that the organizations in question specifically promoted the objectives of the Convention, or were they general human rights organizations, in which case the matter should be handled by the Human Rights Committee?

59. Mr. RECHETOV said he had some misgivings about Mr. van Boven's proposal as it could provide the Government with a pretext to refuse registration to general human rights organizations which did not match the exact wording of the Committee's concluding observations, i.e. which did not specifically promote the objectives of the Convention. The matter was very important, as in Azerbaijan any organization which did not uphold the views of the President and the Government was viewed with suspicion.

60. The CHAIRMAN said he took it that the Committee wished to adopt the paragraph as amended by Mr. van Boven.

61. Paragraph 7, as amended, was adopted.

Paragraph 8

62. Mr. GARVALOV proposed that the words "members of minority groups" should be replaced by "persons belonging to ethnic groups", and that "members of the Armenian ..." should be replaced by "persons belonging to the Armenian ...", so as to bring the wording into line with previous practice.

63. The CHAIRMAN, speaking in his personal capacity, said that it was unclear whether the paragraph covered citizens or foreigners.

64. Mr. BANTON (Country Rapporteur) proposed the formulation "Azerbaijani nationals belonging to minority groups".

65. Mr. DIACONU said that the paragraph addressed employment, housing and education, fields in which most States guaranteed in practice the same rights

to citizens and foreigners, notwithstanding the provisions of article 1, paragraph 2, of the Convention. There was no need to change the wording of the paragraph.

66. The CHAIRMAN, speaking in his personal capacity, expressed reservations about the paragraph, considering as he did that it would be wrong to ask a State party to ensure equal housing and employment rights for non-citizen residents, as that would be tantamount to insisting that the State should employ foreign citizens in the Ministry of Foreign Affairs.

67. There being no objection from other members of the Committee, he said he took it that the Committee wished to adopt the paragraph, as amended by Mr. Garvalov.

68. Paragraph 8, as amended, was adopted.

Paragraph 9

69. Mr. RECHETOV said that he thought the paragraph could be deleted, as it repeated the concern expressed in paragraph 3.

70. Mr. BANTON (Country Rapporteur) suggested that paragraph 9 should be considered at the same time as a revised version of paragraph 3.

71. It was so agreed.

Paragraph 10

72. The CHAIRMAN expressed concern at the use of the formulation "absence of complaints" in the second sentence. That wording was not used consistently in the concluding observations of the Committee.

73. Mr. DIACONU suggested that the Chairman's concerns might be allayed by deleting "or a lack of confidence".

74. Mr. GARVALOV said that, while the absence of complaints might in some cases have resulted from a lack of confidence, he agreed with the Chairman in the matter in question. Each case must be judged on its own merits.

75. Mr. RECHETOV said that if the second sentence was retained, the word "racism" should be replaced by "racial discrimination", and that "or a lack of confidence in the available legal remedies" should perhaps be replaced by "or a lack of confidence in the availability of legal remedies".

76. Mr. BANTON (Country Rapporteur) said he felt that the lack of confidence in legal remedies could be one factor that helped explain the absence of complaints. As had been pointed out during the consideration of the report, in all countries there were people who, while not necessarily ignorant of the remedies available, believed they would have no chance of success if they filed a complaint. That might be particularly true in Azerbaijan, which had just emerged from years under a repressive regime. He would prefer the wording as it stood, subject to the replacement of "racism" by "racial discrimination".

77. The CHAIRMAN said he took it that that was acceptable to the Committee.

78. Speaking in his personal capacity, he specified that if there had been a vote, he would have voted against the paragraph.

79. Paragraph 10, as amended, was adopted.

Paragraphs 11 and 12

80. The CHAIRMAN, speaking in his personal capacity, asked whether it was appropriate to request information on the geographical location of Russians, who to his knowledge were not concentrated in any specific area.

81. Mr. SHAHI queried the use of the words "Some members" in paragraph 11, it being his understanding that the Committee had adopted a format for its suggestions and recommendations of concluding observations whereby the positions it took were based on consensus.

82. Mr. GARVALOV agreed. A State party might well wonder why it should abide by the Committee's suggestions and recommendations if they did not reflect the views of all members. If paragraph 11 was to be retained, then the words "Some members wish" should be replaced by "The Committee would like".

83. Mr. DIACONU, noting that all the points in paragraph 11 were also taken up in paragraph 12, moved that paragraph 11 should be deleted.

84. Mr. BANTON (Country Rapporteur) explained that the current paragraph 11 had been moved unchanged from the previous draft section on subjects of concern to the suggestions and recommendations section, which explained the now inappropriate use of the term "Some members". He suggested that the working group on paragraph 3 should also take up the question of reformulating paragraphs 11 and 12.

85. It was so agreed.

Paragraph 13

86. The CHAIRMAN, speaking in his personal capacity, commented that the text as a whole devoted very little attention to the information supplied by the State party.

87. Mr. BANTON (Country Rapporteur) explained that scant information of the kind requested in the paragraph had been provided; the State party had merely said that it would try to include the information in its next report.

88. Paragraph 13 was adopted.

Paragraph 14

89. Mr. RECHETOV said that he had doubts about the phrase "internally displaced persons" and wondered whether the term "refugees" should be added. Perhaps the informal working group could reconsider the text.

90. The CHAIRMAN said that the rights, notably the civil and political rights, of foreigners and stateless persons, as referred to in the paragraph in connection with article 5, must be seen in the light of the proviso contained in article 1, paragraph 2.

91. Mr. BANTON (Country Rapporteur) pointed out that, under article 5, States parties undertook to guarantee "the right of everyone, without distinction ...", without any cross-reference to article 1, paragraph 2.

92. Mr. DIACONU suggested that the first sentence should be amended to read: "... extracts from the Law on Citizenship, so that the Committee can study the extent to which it is in conformity with the Convention", thus removing the reference to foreigners or stateless persons. The second sentence should be referred to the informal working group for further discussion. The third sentence was on a different subject - namely, the establishment of a national human rights institution - and perhaps belonged in a separate paragraph.

93. The CHAIRMAN, speaking in his personal capacity, said that he objected strongly to the content of the paragraph, which he believed to be inconsistent with the Convention and with the Committee's methods of work. The Committee should not recommend that States parties establish a national human rights institution: each State should decide for itself how it should implement the Convention.

94. Speaking as Chairman, he suggested that the informal working group should prepare a new text of paragraph 14, which the Committee would discuss at a later meeting.

95. It was so agreed.

Paragraph 15

96. Mr. SHAHI, supported by Mr. SHERIFIS, suggested that the phrase "minority groups" should be replaced by "ethnic groups" so as not to confuse the issues.

97. Mr. GARVALOV suggested, for consistency's sake, that "members of" should be changed to "persons belonging to".

98. Paragraph 15, as amended, was adopted.

Paragraph 16

99. Mr. SHAHI proposed the following wording for the latter part of the first sentence: "... in the protection against racial discrimination ...".

100. Mr. BANTON (Country Rapporteur) proposed "in the protection of human rights, against racial discrimination".

101. Mr. GARVALOV suggested including a reference to the joint working paper on article 7 of the Convention (E/CN.4/Sub.2/1998/4), prepared by the Committee and the Sub-Commission on the Promotion and Protection of Human Rights.

102. Mr. DIACONU said he did not consider such a reference necessary in the concluding observations. He approved of Mr. Banton's proposed amendment to the wording, observing that the Office of the High Commissioner for Human Rights dealt with all human rights, not just the ones covered by the Convention.

103. Mr. YUTZIS welcomed Mr. Shahi's amendment. The concluding observations should concentrate on the Committee's mandate, namely racial discrimination.

104. The CHAIRMAN said that, there being no objection to the text apart from his own, he took it that the Committee wished to adopt the paragraph as amended by Mr. Shahi.

105. Paragraph 16, as amended, was adopted.

Paragraph 17

106. Mr. BANTON (Country Rapporteur) said that at least one member had wanted the paragraph to be deleted altogether.

107. Mr. SHAHI asked how the procedure referred to in the paragraph - namely, a complaint by one State party that another State party had violated the Convention, as provided for in article 11 - might be invoked in the present case.

108. Mr. DIACONU said that, in his opinion, the paragraph should be deleted. The procedure for complaints against a State party was explained clearly in article 11 itself and in the rules of procedure: there was no need to spell it out in the concluding observations.

109. After calling for an informal show of hands, the CHAIRMAN said that most members seemed to be in favour of deleting the paragraph.

110. Paragraph 17 was deleted.

111. Mr. RECHETOV, explaining his position, said that he had not been in favour of deletion. The article 11 procedure was one of the most effective sanctions available under the Convention, and yet it had never been used. States parties' failure to make use of it detracted from the effectiveness of the Convention.

112. Mr. GARVALOV agreed with Mr. Rechetov, pointing out that the Committee apparently saw no difficulty in urging States parties to accept the procedure for individual complaints provided for in article 14.

Paragraph 18

113. Paragraph 18 was adopted.

Paragraph 19

114. Following suggestions by Ms. ZOU Deci and Mr. SHERIFIS, Mr. BANTON (Country Rapporteur) suggested the wording "... the report and these concluding observations be widely distributed", deleting "to the public".

115. Ms. ZOU Deci suggested that the phrase "the report" should be replaced by "this periodic report".

116. Paragraph 19, as amended, was adopted.

The meeting rose at 12.35 p.m.